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Attorneys for Class Representatives Michelle Bandell, David Eiglarsh, Charlene Panos, Jeanette Rawls, Jennifer Walker and Alex Zennaro and the Cancelled Member Class

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

DONNA ZIZIAN, Individually and on behalf of all other similarly situated California Residents,

**Plaintiff,**

V.

**MASSAGE ENVY FRANCHISING,  
LLC, a Delaware limited liability  
company.**

**Defendant.**

Case No. 16-cv-00783-DMS-BGS

# **CLASS REPRESENTATIVES' NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

Date: January 13, 2017  
Time: 1:30 p.m.  
Crtrm: 13A  
Judge: Hon. Dana M. Sabraw

[Caption continues on next page.]

1 MICHELE BANDELL, DAVID  
2 EIGLARSH, CHARLENE PANOS,  
3 JEANETTE RAWLS, JENNIFER  
WALKER, and ALEX ZENNARO,  
4 individually and on behalf of all others  
similarly situated,

Case No. 16-cv-01236-DMS-BGS

5 Plaintiffs,

6 v.

7 MASSAGE ENVY FRANCHISING,  
LLC, a Delaware Limited Liability  
Company,

8 Defendant.

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1                   **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2                   **PLEASE TAKE NOTICE** that on January 13, 2017, at 1:30 p.m., in  
3 Courtroom 13A of the above-titled Court located at 333 West Broadway, San  
4 Diego, California, the Honorable Dana M. Sabraw presiding, Class  
5 Representative Donna Zizian in the matter entitled *Donna Zizian, Individually*  
6 *and on behalf of all other similarly situated California Residents v. Massage*  
7 *Envy Franchising, LLC*, Case No. 3:16-cv-00783-DMS-BGS and Class  
8 Representatives Michele Bandell, David Eiglarsh, Charlene Panos, Jeannette  
9 Rawls, Jennifer Walker, and Alex Zennaro in the matter entitled *Michelle*  
10 *Bandell, David Eiglarsh, Charlene Panos, Jeanette Rawls, Jennifer Walker and*  
11 *Alex Zennaro, individually and on behalf of all others similarly situated v.*  
12 *Massage Envy Franchising, LLC, a Delaware Limited Liability Company*, Case  
13 No. 3:16-cv-01236-DMS-BGS, which have been consolidated solely for  
14 purposes of settlement, will and hereby do move the Court, pursuant to Federal  
15 Rule of Civil Procedure 23, for an Order:

- 16                  a) Granting final approval of the terms and conditions set forth in the  
17                   Class Action Settlement and Release (“Settlement”)<sup>1</sup> entered into  
18                   between the Parties and preliminarily approved on July 1, 2016  
19                   [Dkt. 21];  
20                  b) Certifying the Settlement Class, as defined in Court’s Order  
21                   Granting Preliminary Approval of Class Settlement [Dkt. 21], for  
22                   settlement purposes only pursuant to Federal Rules of Civil  
23                   Procedure 23(a) and 23(b)(3);  
24                  c) Finding that the Class Notice Program was adequate and  
25                   reasonable, has met the requirements of Rule 23, due process, and  
26                   all other applicable laws, and has constituted the best notice  
27                   practicable under the circumstances; and  
28                  d) Overruling the six objections to the Settlement.

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1                  The capitalized terms used in this Notice of Motion and Motion, if not  
2                   defined herein, shall have the meanings and/or definitions given to them in the  
3                   Class Action Settlement And Release [Dkt. 17-3] (“Agreement”).

This Motion is based on this Notice of Motion and Motion; the accompanying Memorandum of Points and Authorities; the Agreement, including all exhibits thereto; the accompanying Declarations filed concurrently herewith of Brett M. Weaver, Joshua H. Eggnatz, Melanie Hansen, and Lori Castaneda; the argument of counsel; all papers and records on file in the Actions; and such other matters as the Court may consider.

Respectfully submitted,

Dated: December 2, 2016

## JOHNSON & WEAVER, LLP

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Attorneys for Class Representative  
Donna Zizian and the proposed Active Member  
Class

Dated: December 2, 2016

# EGGNATZ, LOPATIN & PASCUCCI, LLP

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Attorneys for Class Representatives Michele Bandell, David Eglarsh, Charlene Panos, Jeannette Rawls, Jennifer Walker, and Alex Zennaro and the proposed Cancelled Member Class

1       *Filer's Attestation: Pursuant to Section 2.f.4 of the ECF Administrative*  
2       *Policies and Procedures Manual for the Southern District of California, Brett M.*  
3       *Weaver hereby attests that concurrence in the filing of this document has been*  
4       *obtained.*

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## **PROOF OF SERVICE**

I am employed in the County of San Diego. I am over the age of eighteen years and am not a party to the within entitled action. My business address is 600 West Broadway, Suite 1540, San Diego, CA 92101.

On December 2, 2016, I served a copy of the following document:

- 1) CLASS REPRESENTATIVES' NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT;
  - 2) CLASS REPRESENTATIVES' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT;
  - 3) DECLARATION OF LORI L. CASTANEDA REGARDING NOTICE DISSEMINATION AND SETTLEMENT ADMINISTRATION;
  - 4) DECLARATION OF MELANIE HANSEN IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT;
  - 5) DECLARATION IN SUPPORT OF MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT; and
  - 6) DECLARATION OF BRETT M. WEAVER IN SUPPORT OF MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT.

[BY ELECTRONIC ACCESS] I hereby certify that the foregoing documents were filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all parties on the electronic service list maintained for this case.

I declare under penalty of perjury under the law of the United States of America that the foregoing is true and correct.

Executed on December 2, 2016, at San Diego, California.

Bv: *s/Brett M. Weaver*  
BRETT M. WEAVER